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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,282	04/10/2001	Kelly Olsen	10209.123	8316
21999	7590	09/28/2004	EXAMINER	
KIRTON AND MCCONKIE 1800 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE P O BOX 45120 SALT LAKE CITY, UT 84145-0120			LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 09/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/832,282

Applicant(s)

OLSEN ET AL

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/07/02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-29 have been examined. Application 09/832,282 (METHOD FOR UNILEVEL MARKETING) has a filing date 04/10/2001

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-8, 10-22 and 24-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Hammons et al (U.S. 6,477,509).

As per claim 1, Hammons teaches:

A method of unilevel marketing and distribution comprising the steps of:

receiving personal information regarding a referred customer from a sales representative (see column 6, lines 20-67);

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incorporating said personal information into promotional material, distributing said promotional material directly to the referred customer from a centralized distributor (see column 6, lines 55-67);

receiving orders from referred customers, wherein said orders include means for identifying the sales representative (see column 7, lines 60-67), and

crediting the sales representative with a sale from the distributed promotional goods (see column 7, lines 60-67).

As per claim 2, Hammons teaches:

The method of claim 1, wherein the personal information received from the sales representative is received over the world wide computer network using a web page accessed by the sales representative (see column 1, lines 11-35).

As per claim 3, Hammons teaches:

The method of claim 1, wherein the personal information includes a personalized message from the sales representative to the customer and the means for identifying the sales representative is an identification number (see column 10, lines 8-24).

As per claim 4, Hammons teaches:

The method of claim 1, wherein the sales representative is paid a commission for being the sale representative who referred the customer making the purchase (see column 7, lines 60-67).

As per claim 5

The method of claim 1, wherein said personal information is received over the Internet (see column 1, lines 12-35).

As per claim 6, Hammons teaches:

The method of claim 1, wherein the personal information is received via E-mail (see column 8, lines 15-21).

As per claim 7, Hammons teaches:

The method of claim 1, wherein the personal information is received via a telephone (see column 8, lines 1-21).

As per claim 8, Hammons teaches:

The method of claim 1, wherein the promotional materials are in an audio form (see column 9, lines 13-25).

As per claim 10, Hammons teaches:

The method of claim 1, wherein the promotional materials are in a video presentation format (see column 9, lines 13-25).

As per claim 11, Hammons teaches:

The method of claim 1, wherein the personal information provided by the sales representative includes the customer's age, interests, income level, or household (see column 7, lines 43-50).

As per claim 12, Hammons teaches:

The method of claim 1, wherein the personal information is received by a distributor is stored in machine memory (see figure 2).

As per claim 13, Hammons teaches:

The method of claim 1, wherein the personal information received from the sales representative is stored in a customer database (see figure 2).

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As per claim 14, Hammons teaches:

The method of claim 1, wherein the promotional materials are transmitted to the customer over the Internet in the form of electronic mail (see column 8, lines 55-66).

As per claim 15, Hammons teaches:

The method of claim 1, wherein the customer purchases over the Internet (see column 7, lines 60-67; column 2, lines 15-35).

As per claim 16, Hammons teaches:

A method for selling product through direct promotion and direct distribution to a customer comprising the steps of:

receiving information regarding a customer referral from a sales representative over a world wide computer network;

storing said information in a customer database;

incorporating said information into promotional materials; sending said promotional materials to said customer;

receiving a purchase order from said customer, said purchase order containing means for identifying the sales representative; and crediting the sales representative with a commission for said purchase. Claim 16 contains the same limitations as claims 1, 2 and 13 therefore the same rejection is applied.

As per claim 17, Hammons teaches:

The method of claim 16, wherein the personal information received from the sales representative is received over the world wide computer network using a web

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page accessed by the sales representative. Claim 17 contains the same limitations as claim 2 therefore the same rejection is applied.

As per claim 18, Hammons teaches:

The method of claim 16, wherein the personal information includes a personalized message from the sales representative to the customer and the means for identifying the sales representative is an identification number. Claim 18 contains the same limitations as claim 3 therefore the same rejection is applied.

As per claim 19, Hammons teaches:

The method of claim 16, wherein said personal information is received over the Internet. Claim 19 contains the same limitations as claim 5 therefore the same rejection is applied.

As per claim 20, Hammons teaches:

The method of claim 16, wherein the personal information is received via E-mail. Claim 20 contains the same limitations as claim 6 therefore the same rejection is applied.

As per claim 21, Hammons teaches:

The method of claim 16, wherein the personal information is received via a telephone. Claim 21 contains the same limitations as claim 7 therefore the same rejection is applied.

As per claim 22, Hammons teaches:

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The method of claim 16, wherein the promotional materials are in an audio form. Claim 22 contains the same limitations as claim 8 therefore the same rejection is applied.

As per claim 24, Hammons teaches:

The method of claim 16, wherein the promotional materials are in a video presentation format. Claim 24 contains the same limitations as claim 10 therefore the same rejection is applied.

As per claim 25, Hammons teaches:

The method of claim 16, wherein the personal information provided by the sales representative includes the customer's age, interests, income level, or household. Claim 25 contains the same limitations as claim 11 therefore the same rejection is applied.

As per claim 26, Hammons teaches:

The method of claim 16, wherein the personal information is received by a distributor is stored in machine memory. Claim 26 contains the same limitations as claim 12 therefore the same rejection is applied.

As per claim 27, Hammons teaches:

The method of claim 16, wherein the personal information received from the sales representative is stored in a customer database. Claim 27 contains the same limitations as claim 13 therefore the same rejection is applied.

As per claim 28, Hammons teaches:



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The method of claim 16, wherein the promotional materials are transmitted to the customer over the Internet in the form of electronic mail. Claim 28 contains the same limitations as claim 14 therefore the same rejection is applied.

As per claim 29, Hammons teaches:

The method of claim 16, wherein the customer purchases over the Internet. Claim 29 contains the same limitations as claim 15 therefore the same rejection is applied.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammons et al (U.S. 6,477,509).

As per claim 9, Hammons teaches:

The method of claim 1, wherein the promotional materials are in printed form (see column 6, lines 55-67). Hammons does not expressly teach printed form. However, Official notice is taken that it is old and well known in the computer art to print information that is displayed in computer screens. It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention was made that the promotions displayed in the user's computer would also be printed in paper form. This feature would allow users to browse promotions without the need to be connected to the Internet.

As per claim 23, Hammons teaches:

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The method of claim 16, wherein the promotional materials are in printed form. Claim 23 contains the same limitations as claim 9 therefore the same rejection is applied.

**Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Bezos teaches an internet-based customer referral system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

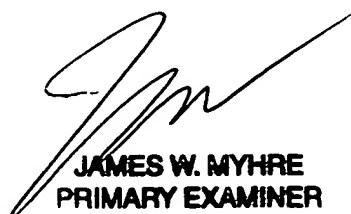
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra

September 3, 2004



**JAMES W. MYHRE**  
**PRIMARY EXAMINER**